

## **REMARKS**

Claims 22-60 are pending in the Application and all stand rejected in the Office action mailed October 20, 2008. No Claims are amended by this response. Claims 22, 36, and 50 are independent claims from which claims 23-35, 37-49, and 51-60 depend, respectively. Applicants respectfully request reconsideration of the pending claims, in light of the remarks set forth below.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, USPTO personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. **A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.**

M.P.E.P. §2106(II) (emphasis added).

As such, the Applicants assume, based on the goals of patent examination noted above, that the current Office Action sets forth “all reasons and bases” for rejecting the claims.

As an initial matter, Applicants respectfully note that the Office action states, at page 2:

The amendment filed on 06/16/2008 has been considered and is insufficient to overcome the references. However a new ground(s) of rejection has been made using a newly found Chan et al reference. Therefore the rejection

of claims communicated via previous office action has been withdrawn. Rejection follows.

In view of the goals of the Office, as stated at M.P.E.P. §2106(II), Applicants wonder why the Office failed to provide any rebuttal to Applicants' arguments, if Applicants' amendment filed June 16, 2008 (the "Amendment") were truly "...insufficient to overcome the references...", as stated in the instant Office action? If the Amendment was truly "insufficient to overcome the references", then why did the Office not respond to Applicants' arguments, and simply maintain the rejections of the March 14, 2008 Office action in the instant Office action? Instead, the Office withdrew the March 14, 2008 Office action, felt a need to perform an additional search, and then cited a "newly found reference" in the rejections of the instant Office action. This would certainly lead a reasonable person to believe that the arguments presented by the Applicants in the Amendment were indeed persuasive, to at least some extent. The Applicants are even more puzzled, in light of the fact that the bulk of the rejections of the instant Office action appear to rely on the same prior art reference and cited in the March 14, 2008 Office action. Applicants respectfully submit that the act of withdrawing that Office action, and the mailing of a new, substantially identical Office action that does not address Applicants' rebuttal to argument that the Office now repeats needlessly delays prosecution, contrary to the stated goals of the Office.

### **Rejection of Claims**

Claims 22-24, 29-32, 33-37, 42-46, 49, 50, 54-57, and 60 were rejected under 35 U.S.C. 103(a) as being unpatentable over Henley, et al. (US 5,526,353, hereinafter "Henley") in view of Chan, et al. (US 5,550,861, hereinafter "Chan"). Claims 25, 26, 38, 39, 51, and 52 were rejected under 35 U.S.C. 103(a) as being anticipated by Henley in view of Chan, and further in view of Heath, et al. (US 5,231,646, hereinafter "Heath"). Claims 27, 28, 40, 41, and 53 were rejected under 35 U.S.C. 103(a) as being anticipated by Henley in view of Heath and Chan, and further in view of Avery, et al. (US 5,287,384, hereinafter "Avery"). Claims 47, 48, 58, and 59 were rejected under 35

U.S.C. 103(a) as being anticipated by Henley in view of Chan, and further in view of Sharman, et al. (US 5,774,854, hereinafter "Sharman").

Applicants respectfully note that all of the claims are rejected for reasons of alleged obviousness.

Applicants respectfully submit that the Office action has failed to establish a *prima facie* case of obviousness, in accordance with M.P.E.P. §2142. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." In addition, the Federal Circuit has made clear that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396.

Applicants respectfully traverse the rejections for the reasons set forth during prosecution, and those that follow.

**I. The Proposed Combination Of Henley And Chan Does Not Render Claims 22-24, 29-32, 33-37, 42-46, 49, 50, 54-57, And 60 Unpatentable.**

Claims 22-24, 29-32, 33-37, 42-46, 49, 50, 54-57, and 60 were rejected under 35 U.S.C. 103(a) as being unpatentable over Henley in view of Chan. Applicants respectfully traverse the rejection, and respectfully submit that the proposed combination of Henley and Chan does not render Applicants' claims unpatentable.

With regard to the rejection of independent claim 22, the Applicants respectfully submit that the bulk of the rejection cites only Henley, and that the arguments rejecting

those aspects of claim 22 are taken, verbatim, from the rejection set forth in the Office action of March 14, 2008. The Office now cites Chan in combination with Henley, but fails to show where Chan overcomes shortcomings of Henley. Indeed, the Office has failed to even address Applicants' arguments regarding the rejection of claim 22 set forth in the Amendment filed June 16, 2008.

Applicants respectfully maintain that the Office fails to specifically identify the teachings in either or both of Henley and Chan that allegedly disclose Applicants' "voice communication circuit". The Office asserts that component parts of the "voice communication circuit", namely Applicants' "at least one processor" and "buffer", are taught by elements 210, 220, and 250 of FIG. 2 of Henley, respectively. The Office then proceeds to assert that Applicants' feature "interface circuitry", which is a component part of the "voice communication circuit" of claim 22, is taught by the whole of FIG. 2 of Henley, without providing a more specific identification of which of the elements in all of FIG. 2 of Henley teach this feature of Applicants' claim 22. Applicants are left wondering which of the elements of Henley are alleged to provide the relevant teachings. The rejections of the remaining claims of the Office Action are written in a similar fashion without explanations or reasoning of why the cited teachings teach or suggest the features of Applicants' claims. Further, the Office cites only Henley in this regard, and fails to identify any teachings of Chan that remedy this shortcoming.

The Applicants respectfully submit that, if the features set forth in the Applicants' rejected claims were so clearly taught by Henley and/or Chan, then the Office would have been able to clearly identify the specific teachings in Henley and/or Chan and explain why the cited teaching indisputably render Applicants features of claim 22 unpatentable, as required by M.P.E.P. §2142.

However, the Office Action provides vague, non-specific, and/or confusing references, without providing any explanation or interpretation regarding the teachings of Henley and Chan and the corresponding citations therein.

The failure of the Office to provide clear and specific explanations and interpretation of the teachings of Henley and Chan results in making the Applicants' task of responding to the rejections unreasonably difficult because the Applicants must first

set forth an assumed teaching of Henley and/or Chan, and then provide argument against the assumed teachings, instead of the Office Action clearly and specifically setting forth the teachings of Henley and/or Chan, and the Applicants responding thereto.

Therefore, because the rejections of the Office Action lack specificity, explanation and interpretation, resulting in an incomplete Office Action, the Applicants again respectfully request that any future Office Action, should one be issued, be made non-final. The Applicants also again respectfully request that any rejection made in any subsequent Office Action be detailed and specifically identify the relevant teachings, including explanations and interpretations of how and why the Office believes the references teach Applicants' claim feature, so that the Applicants may be provided with at least a first fair opportunity to respond to the rejections without having to guess at the supposed teachings and create a rejection, and then respond thereto. Applicants respectfully point out that the burden rests upon the Office to establish a *prima facie* case of obviousness.

With the above in mind, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of anticipation or obviousness, and that at least claims 22-24, 29-32, 33-37, 42-46, 49, 50, 54-57, and 60 are allowable over the proposed combination of Henley and Chan.

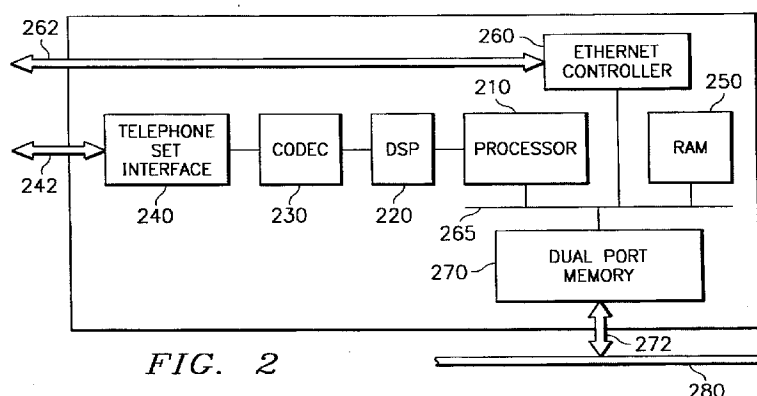
Notwithstanding the above, Applicants respond to the rejections of claims 22-24, 29-32, 33-37, 42-46, 49, 50, 54-57, and 60 as follows:

With regard to claim 22, Applicants respectfully submit that Applicants' claim 22 recites "[a] voice communication circuit comprising: at least one processor capable of packetizing digitized voice information to produce at least one voice packet; a buffer capable of storing the at least one voice packet; interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces, each of the plurality of interchangeable network interfaces supporting communication of voice packets via an associated type of communication network; the at least one processor capable of determining the associated type of communication network supported by the one of the plurality of interchangeable network interfaces in

communication with the interface circuitry; and the at least one processor capable of arranging the transmission of voice packets via the one of the plurality of interchangeable network interfaces based upon the associated type of communication network.” Applicants respectfully submit that the proposed combination of Henley and Chan does not teach or suggest Applicants’ claim 22, for at least the reasons that follow.

The Office states that Henley teaches “[a] voice communication circuit comprising: ... a buffer (FIG. 2, 250) capable of storing the at least one voice packet (column 10, lines 40-45);...” and “...interface circuitry (FIG. 2) capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces (FIG. 1, 130, 170, column 5, lines 14-16), each of the plurality of interchangeable network interfaces supporting communication of voice packets via an associated type of communication network (FIG. 1, 150, column 9, lines 13-17);...” Applicants respectfully disagree. Applicants respectfully note that the Office cites only Henley in regard to the rejection of these aspects of Applicants’ claim 22.

Applicants respectfully submit that the proposed combination of references does not teach or suggest, at least, “...[a] voice communication circuit comprising: ... a buffer capable of storing the at least one voice packet;...” and “...interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces, each of the plurality of interchangeable network interfaces supporting communication of voice packets via an associated type of communication network ...”, as asserted by the Office. Applicants first address the alleged teachings of FIG. 2, which is shown below:



Applicants respectfully submit that FIG. 2 of Henley, the entirety of which was identified by the Office as corresponding to Applicants' claimed feature "interface circuitry", shows a number of elements including "RAM 250", which the Office identified as teaching Applicants' separate and distinct "buffer" element. Applicants respectfully submit that Applicants' claim 22 clearly recites a "buffer" element that is a separate and distinct element from Applicants' "interface circuitry" element that couples the "buffer" element with Applicants' claim element "one of a plurality of interchangeable network interfaces...." Applicants respectfully submit that cited teachings of Henley do not teach or suggest Applicants' claimed elements **and** structure. Applicants respectfully submit that it is not sufficient to merely identify elements of Applicants' claim in the cited reference, but that the reference must also teach the recited structure and the relationships and interconnections. The Office has failed to show where Henley teaches the elements of claim 22 arranged as described in claim 22. Further, the Office cites only Henley in the rejection of these aspects of Applicants' claim 22, and fails to show where Chan remedies these deficiencies of Henley. For at least these reasons, Applicants respectfully submit that the Office has failed to establish a *prima facie* showing of how and why the Henley and Chan references, taken alone or in combination, teach or suggest at least these aspects of Applicants' claim 22.

Applicants respectfully submit that Henley describes FIG. 2 as "a block diagram of a microprocessor-based system constructed in accordance with the present invention." See column 8, lines 9-11. Henley describes the elements of FIG. 2, in part, at column 9, lines 41-64, which state:

Turning now to FIG. 2, illustrated is a block diagram of a microprocessor-based system constructed in accordance with the present invention. The microprocessor-based controller comprises a microprocessor 210, a digital signal processor ("DSP") 220, a CODEC 230, a telephone set interface ("TSI") 240, a TSI connector 242, random-access memory ("RAM") 250, an Ethernet controller 260, an Ethernet controller interface connector 262, a dual port memory 270, and a dual port memory interface connector 272.

The illustrated embodiment provides standard telephone instrument 110 connectivity into the PC 120 through the TSI 240 and TSI connector 242. The TSI 240 accepts an analog signal from the telephone instrument 110. The TSI connector 242 is preferably a standard RJ-11 connector.

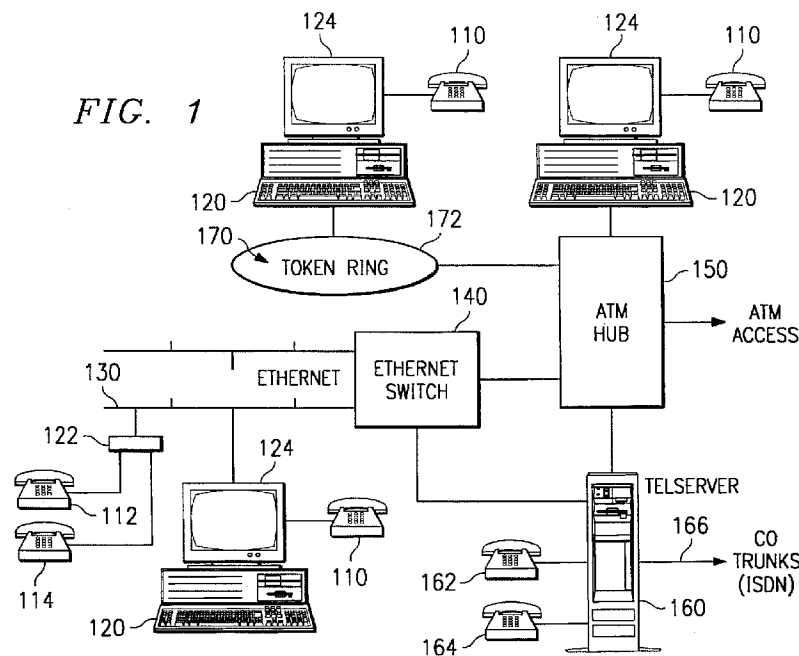
The illustrated embodiment also provides connectivity to the backbone 130 through the Ethernet controller 260 and Ethernet controller interface connector 262. The Ethernet controller 260 transmits data to, and receives data from, the backbone 130. The Ethernet controller interface connector 262 is preferably a standard RJ-45 connector. The Ethernet controller 260 is internally connected to the processor 210 and RAM 250 by an internal local bus 265.

As is shown above, the system of FIG. 2 interfaces to "backbone 130" via an "Ethernet controller 260" and "Ethernet controller interface connector 262", to "standard telephone instrument 110" via a "telephone set interface ("TSI") 240" and a "TSI connector 242", and via a "dual port memory 270" and a "dual port memory interface connector 272" with "I/O bus 280". Applicants respectfully submit that Henley does not teach that "standard telephone instrument 110" and/or "I/O bus 280" are networks. Further, Applicants respectfully submit that Henley does not teach that either the "telephone set interface ("TSI") 240" and "TSI connector 242", nor the "dual port memory 270" and a "dual port memory interface connector 272" are considered to be network interfaces. Applicants respectfully submit, therefore, that the system of FIG. 2 appears to have only one network interface, namely, "Ethernet controller 260" and "Ethernet controller interface connector 262". Therefore, Applicants respectfully submit that the Office has failed to set forth a reasoned explanation or interpretation of how and why FIG. 2 of Henley teaches or suggests, at least, "...interface circuitry capable of



communicatively coupling the buffer with one of a plurality of interchangeable network interfaces...", as asserted by the Office. Because the Office cites only Henley in this regard, the Office has failed to identify any teachings of Chan that remedy the shortcomings of Henley.

Applicants respectfully submit that the Office has failed to explain how or why elements 130, 150, and 170 of FIG. 1, shown below, or any other portion or figure of Henley, teach or suggest Applicants' claim 22 feature of "...interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces...."



The Office states that Henley teaches "...interface circuitry (FIG. 2) capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces (FIG. 1, 130, 170, column 5, lines 14-16)..." This statement by the Office appears to suggest that elements 130 and 170 of FIG. 1 of Henley, described by Henley as "backbones 130, 170", teach Applicants' feature "...a plurality of interchangeable network interfaces...." Applicants respectfully disagree, and submit that Henley teaches that "backbones 130, 170" are backbone networks, not "network interfaces" as recited by Applicants' claim 22. Applicants respectfully submit that a "network" and a "network

interface” are quite different. In addition, FIG. 1 of Henley fails to teach anything about a plurality of interchangeable network interfaces. The word “interchangeable” may be defined as “...capable of being interchanged; esp: permitting mutual substitution.” (emphasis added) See Merriam-Webster’s Collegiate Dictionary – Tenth Edition, Merriam-Webster, Incorporated, 2002, page 608. Applicants respectfully submit that Henley describes “backbone 130” as an Ethernet network, and “backbone 170” as a Token Ring network. The Office has failed to explain its interpretation of the word “interchangeable” in the context of “interchangeable network interfaces”, and how or why FIG. 1 teaches anything about network interfaces that “permit mutual substitution” across Ethernet and Token Ring networks. The Office has also failed to provide any explanation of how and why the alleged “backbones 130, 170” teach “a plurality of interchangeable network interfaces”, in accordance with Applicants’ claim 22. Applicants respectfully submit that neither the cited elements 130, 150, 170 of FIG. 1, nor the entirety of FIG. 1 of Henley teaches or suggests “...a plurality of interchangeable network interfaces...”, as recited by Applicants’ claim 22.

Applicants now address the cited portion of Henley at column 5, lines 14-16, which is shown below in context, underlined:

The system further comprises a packet disassembly circuit, having a buffer associated therewith, for receiving the data packet from the backbone. The packet disassembly circuit inserts the portion into an absolute location of the buffer, the position identifier determining the location, the portion thereby synchronized with adjacent portions of the stream of digital audio data in the buffer to compensate for the variable periods of transmission time.

The cited portion of Henley shown above teaches a packet disassembly circuit that has an associated buffer for receiving data packets from the backbone, and that the received portion is stored in the buffer with adjacent portions in a manner that compensates for variable transmission time. This portion of Henley fails to teach or suggest, however, “...interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces...”, as recited by Applicants’ claim 22. The brief description of a “packet disassembly circuit” shown above does not

teach or suggest the “interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces...” of Applicants’ claim 22. Besides, Henley teaches that the “[t]he processor 210 is charged with the responsibility of compiling the information from the DSP 220 and Ethernet controller 260 and performing the operations required to transmit the data. The processor 210 therefore embodies the packet assembly circuit and the packet disassembly circuit.” (emphasis added) *See id.* at column 10, lines 29-33. Applicants respectfully submit that the Office previously identified the “processor 210” as teaching Applicants separate and distinct element of claim 22, “at least one processor”. Applicants respectfully submit that this element cannot perform both functions in the manner described by Applicants’ claim 22 as is being alleged. Further, the Office has failed to provide any explanation or interpretation of how and why this portion of Henley allegedly teaches this aspect of Applicants’ claim 22. Applicant again notes that the Office cites only Henley for support of the rejection of this aspect of Applicants’ claim 22. Therefore, based at least upon the above, Applicants respectfully submit that the Office has failed to show where column 5, lines 14-16 of Henley teaches at least this aspect of Applicants’ claim 22, and has not shown that Chan overcomes the deficiencies of Henley in this regard.

Applicants now turn to the cited portion of Henley at column 9, lines 13-17, which is shown underlined and in context, below:

The telephone instruments 110, 112, 114, 162, 154, 164, 174 may be traditional analog instruments, but it is within the scope of the present invention that they be ISDN-compatible or other digital instruments. The PCs 120, 154, 174 are illustrated as being conventional PCs having an expansion or input/output (“I/O”) bus preferably adhering to the Industry Standard Architecture (“ISA”) or Extended Industry-Standard Architecture (“EISA”). Those of skill in the art will understand that the present invention is not limited to a particular hardware architecture. As will be described with reference to FIG. 2, the I/O bus provides an interface by which the system of the present invention allows communication between the backbones 130, 170 and the hub 150 and the corresponding PCs 120, 154, 174.

Applicants respectfully submit that while the cited portion of Henley shown above teaches that a variety of telephone instruments and PC I/O busses may be employed in the invention of Henley, the cited portion of Henley does not teach or suggest, at least, "...interface circuitry capable of communicatively coupling the buffer with one of a plurality of interchangeable network interfaces...", as recited by Applicants' claim 22. The Office has not explained how "interface circuitry", which the Office has identified as being taught by the entire contents of Fig. 2 of Henley, is capable of communicatively coupling a separate and distinct "buffer" (for which a corresponding teaching of Henley has not been identified – the "RAM 250" of Henley is part of Fig. 2, which allegedly teaches the "interface circuitry") to one of a plurality of network interfaces, which have been identified as "backbone [network] 130" and "token ring [network] 170". Further, the Office fails to provide any explanation or interpretation of how and why this cited portion of Henley teaches this aspect of Applicants' claim 22. Applicants again respectfully request that the Office provide a clear and detailed explanation of what aspects of Applicants' claim 22 this passage is alleged to teach, and how and why this teaching, and the other cited teachings from Henley disclose Applicants' invention of claim 22. According to M.P.E.P. §2142, "...the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." Applicants again respectfully note that the Office relies only on Henley in the rejection, and that the Office has failed to show where Chan remedies any of these shortcomings of Henley. For at least these reasons, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness with respect to the above-identified aspects of claim 22.

Further, Applicants respectfully submit that the proposed combination of Henley and Chan does not teach or suggest, at least, "...the at least one processor capable of determining the associated type of communication network supported by the one of the plurality of interchangeable network interfaces in communication with the interface circuitry;...", as recited by Applicants' claim 22. Applicants again respectfully note that the Office cites only Henley for support of the rejection of this aspect of Applicants' claim 22.

The Office asserts that Henley teaches "a voice communication circuit comprising: ... the at least one processor (FIG. 2, 210) capable of determining the

associated type of communication network supported by the one of the plurality of interchangeable network interfaces in communication with the interface circuitry (column 7, lines 37-42; Henley et al teach the microprocessor-driven packet assembly and disassembly circuits are equipped in separate computers. Thus making communication between the plurality of nodes possible through the interchangeable interfaces claimed previously. Additionally, it is further disclosed that the present invention provides a system for communicating audio data in the packet-based computer network - column 8, lines 65-66). Therefore, the associate [sic] type of communication network must be supported by the interfaces);....” See Office action at page 3. Applicants respectfully disagree.

The Applicants respectfully submit that the Office has failed to clearly, specifically, and unambiguously identify the teachings of Henley that disclose Applicants’ “interchangeable network interface” and “interface circuitry”. In addition, the Office has failed to provide a clear and detailed explanation of how and why the cited elements of Henley are arranged to teach Applicants’ features. Accordingly, Applicants respectfully submit that the Office has failed to provide a reasoned explanation that supports the assertion that Henley teaches that Applicants’ element “at least one processor”, identified by the Office as corresponding to “element 210” of FIG. 2 of Henley, is capable of determining the associated type of communication network supported by the one of the plurality of “interchangeable network interfaces”, identified by the Office as “backbones [networks] 130, 170”, that are in communication with the “interface circuitry”, identified by the Office as the entirety of FIG. 2 of Henley.

Applicants respectfully submit that the word “determine” may be defined as “...to establish or ascertain definitely, as after consideration, investigation, or calculation....” See, e.g. The American Heritage Dictionary of the English Language – New College Edition, © 1979, Houghton Mifflin Company, page 359. As discussed above, “backbones 130, 170” are communication networks, not “network interfaces”, and further, the Office has failed to provide an explanation or interpretation of how the “backbones 130, 170” teach “interchangeable network interfaces”. Applicants respectfully again submit that the Henley does not teach or suggest that “processor 210” of Fig. 2 of Henley, which the Office has identified as Applicants’ claim element “at

least one processor”, is capable of establishing or ascertaining definitely the associated type of communication network supported by the one of the plurality of “interchangeable network interfaces”, identified by the Office as “backbones [networks] 130, 170”, that are in communication with the “interface circuitry”, identified by the Office as the entirety of FIG. 2 of Henley. Therefore, Applicants respectfully submit that the cited portion of Henley fails to teach at least this aspect of Applicants’ claim 22.

The Office also cites Henley at column 7, lines 37-42, which is shown below, underlined:

In a preferred embodiment of the present invention, the computer network of the present invention comprises a plurality of computers coupled to the backbone, the packet assembly circuit and the packet disassembly circuit located in separate ones of the computers. Thus, present invention is designed to operate in a computer network having a plurality of nodes and able to support many ongoing telephone conversations. The computer network may be of a client-server or peer-peer topology. Thus, the system of the present invention allows a computer network to supplant a private branch exchange ("PBX") system. PBXs are highly proprietary, expensive and relatively inflexible.

Applicants respectfully submit that the cited portion of Henley shown above simply states that the network of Henley preferably comprises a number of computers connected to a backbone network, and may support a number of ongoing conversations. The cited portion of Henley shown above does not, however, teach or suggest a “voice communication circuit” comprising “at least one processor” that is “...capable of determining [i.e., establishing or ascertaining definitely] the associated type of communication network supported by the one of the plurality of interchangeable network interfaces in communication with the interface circuitry...”, in accordance with Applicants’ claim 22. Applicants respectfully submit that merely “...making communication between the plurality of nodes possible...” and “...communicating audio data in the packet-based computer network...” does not teach or suggest “[a] voice communication circuit comprising: ... at least one processor...; ... the at least one processor capable of determining [i.e., establishing or ascertaining definitely] the associated type of communication network supported by the one of the plurality of

interchangeable network interfaces in communication with the interface circuitry;...", as recited by Applicants claim 22. Further, the Office has not provided any explanation or interpretation of the teachings of Henley that explain how and why the alleged teachings are present. The Office also does not identify any support in Chan to overcome these shortcomings of Henley. Therefore, Applicants respectfully submit that the Office has failed to show how and why the cited portion of Henley at column 7 lines 37-42 in combination with Chan teaches or suggests at least this aspect of Applicants' claim 22.

The Office also cites Henley at column 8, lines 65-66, which is shown below, underlined:

Again, the present invention provides a system and method for communicating audio data in the packet-based computer network 100 wherein transmission of data packets through the computer network 100 requires variable periods of transmission time. The present invention is designed to operate in a distributed architecture network 100 with components as herein described.

The portion of Henley shown above simply teaches that the invention of Henley provides for communicating audio data in a packet-based computer network where transmission of data packets through network requires variable periods of transmission time. Applicants respectfully submit, however, that this portion of Henley does not teach or suggest, at least, "[a] voice communication circuit comprising: ... at least one processor...; ... the at least one processor capable of determining [i.e., establishing or ascertaining definitely] the associated type of communication network supported by the one of the plurality of interchangeable network interfaces in communication with the interface circuitry;...", as recited by Applicants claim 22. There is no mention of "determining" anything, and there is no mention of "interchangeable network interfaces", in accordance with Applicants' claim 22. Further, the Office cites only Henley, and fails to show where Chan teaches or suggest this aspect of Applicants' claim 22. Therefore, Applicants respectfully submit that the Office has failed to show where column 8, lines 65-66 of Henley, and/or any teaching from Chan, teaches at least this aspect of Applicants' claim 22.

As previously noted, the Office cites only Henley in its rejections of the various aspects of Applicants' claim 22 addressed above, and offers no teachings of Chan that remedy the noted deficiencies of Henley. Therefore, based at least upon the above, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness, in accordance with M.P.E.P. §2142, that the proposed combination of Henley and Chan does not render claim 22 unpatentable, and that claim 22, and any claims that depend therefrom are allowable over Henley and Chan. Therefore, Applicants respectfully request that the rejection of claims 22-24, 29-32, 33-35 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With regard to independent claim 36, Applicants respectfully submit that claim 36 recites limitations similar to those of claim 22 and that the Office rejected claim 36 for many of the same reasons. Therefore, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness, as required by M.P.E.P. §2142, for at least the reasons set forth above, and that independent claim 36 is therefore allowable over the proposed combination of Henley and Chan. Because claims 37-49 depend either directly or indirectly from claim 36, Applicants respectfully submit that Henley and Chan, taken alone or in combination, also do not render claims 37-49 unpatentable. Accordingly, Applicants respectfully request that the rejection of claims 36, 37, 42-46, and 49 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With regard to claim 50, Applicants respectfully submit that Applicants' claim 50 recites "[a] machine-readable storage having stored thereon a computer program having a plurality of code sections for implementing a voice communication system, the voice communication system capable of accepting at any point in time one of a plurality of interchangeable network interfaces, each of the interchangeable network interfaces for use with an associated type of communication network, the code sections executable by a machine for causing the machine to perform the operations comprising: detecting the presence of an interchangeable network interface; determining the associated type of communication network for use with the detected interchangeable network interface; establishing a packet voice call via the associated type of



communication network; converting analog voice information to transmit voice packets; sending the transmit voice packets via the associated type of communication network using the interchangeable network interface; receiving voice packets via the associated type of communication network using the interchangeable network interface; and converting the received voice packets to analog voice information.” Applicants respectfully submit that the proposed combination of Henley and Chan does not render claim 50 unpatentable, for at least the reasons set forth below.

Applicants respectfully submit that claim 50 recites limitation similar in many ways to those of claims 22 and 36, that the Office has failed to establish a *prima facie* case of obviousness with respect to claims 22 and 36 in regard to the Henley and Chan references. Applicants respectfully submit that claim 50 and any claims that depend therefrom are also allowable over Henley and Chan, for at least some of the reasons set forth above.

The Office asserts, at page 8, that Henley teaches “...detecting the presence of an interchangeable network interface (column 3, lines 32-34);...” Applicants respectfully note that the Office cites only Henley in the rejection of this aspect of Applicants’ claim 50. Applicants now address Henley at column 3, lines 32-34, which states:

The most common physical networking protocol or topology for small networks is Ethernet, developed by Xerox. When a node possesses a packet to be transmitted through the network, the node monitors the backbone and transmits when the backbone becomes clear. There is no central backbone master device to grant requests to gain access to the backbone. While this type of multipoint topology facilitates rapid transmission of data when the backbone is lightly utilized, packet collisions may occur when the backbone is heavily utilized. In such circumstances, there is a greater chance that multiple nodes will detect that the backbone is clear and transmit their packets coincidentally. If packets are impaired in a collision, the packets are retransmitted until transmission is successful.

Applicants respectfully submit that the "...detect[ion] that the backbone is clear...", which is set forth by the cited portion of Henley reproduced above, is very different from and does not teach or suggest Applicants' claimed subject matter. That is, the cited portion of Henley shown above does not teach or suggest, at least, "[a] machine-readable storage having stored thereon a computer program ... for implementing a voice communication system ... capable of accepting at any point in time one of a plurality of interchangeable network interfaces ... for causing the machine to perform the operations comprising: detecting the presence of an interchangeable network interface [for use with an associated type of communication network];...", as recited by Applicants' claim 50. Applicants again respectfully note that the Office cited only Henley in the rejection, and did not identify any teachings of Chan in this regard. Therefore, Applicants respectfully submit that the Office has not shown where the proposed combination of Henley and Chan teach or suggest at least this aspect of Applicants' claim 50.

Further, Applicants respectfully submit that the proposed combination of Henley and Chan fails to teach "...determining the associated type of communication network for use with the detected interchangeable network interface; ...", as recited by Applicants' claim 50. The Office action cites only Henley in support of the rejection of this aspect of claim 50 and states, however, that Henley teaches "...determining the associated type of communication network for use with the detected interchangeable network interface (column 7, lines 37-42);..." See Office action at page 8. Applicants have previously addressed the cited portion of Henley, which is reproduced again below in context and underlined:

In a preferred embodiment of the present invention, the computer network of the present invention comprises a plurality of computers coupled to the backbone, the packet assembly circuit and the packet disassembly circuit located in separate ones of the computers. Thus, present invention is designed to operate in a computer network having a plurality of nodes and able to support many ongoing telephone conversations. The computer network may be of a client-server or peer-peer topology. Thus, the system of the present invention allows a computer network to supplant a

private branch exchange ("PBX") system. PBXs are highly proprietary, expensive and relatively inflexible.

Applicants respectfully maintain that the portion of Henley shown above simply teaches that the network of Henley preferably comprises a number of computers connected to a backbone network, and may support a number of ongoing conversations supporting client-server or peer-peer technology. Applicants respectfully submit, however, that the portion of Henley shown above does not teach or suggest, at least, "...determining [i.e., establishing or ascertaining definitely] the associated type of communication network for use with the detected interchangeable network interface;...", in accordance with Applicants' claim 50. Indeed, as Applicants have previously shown, Henley fails to make any mention of determining a type of network. Therefore, Applicants respectfully submit that the Office has failed to show where the cited portion of Henley at column 7, lines 37-42 teaches or suggests at least this aspect of Applicants' claim 50. Applicants respectfully submit that the Office cited only Henley in the rejection of this aspect of Applicants' claim 50. Therefore, the Office has not shown that the Henley and Chan references, taken alone or in combination, teach or suggest at least this aspect of Applicants' claim 50.

Applicants also respectfully submit that "...the present invention provid[ing] a system for communicating audio data in [a] packet-based computer network...", as allegedly taught by Henley at column 8, lines 65-66, or the assertion by the Office at page 8 that "...the associate [sic] type of communication network must be supported by the interfaces..." clearly does not teach or suggest Applicants' feature "...determining [i.e., establishing or ascertaining definitely] the associated type of communication network for use with the **detected** interchangeable network interface;..." of Applicants' claim 50.

Applicants respectfully submit that the Office cites only Henley in the rejection of these aspects of claim 50, and Applicants have shown above that Henley does not teach or suggest at least these aspects of Applicants claim 50. Therefore, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of obviousness, as required by M.P.E.P. §2142, and that claim 50 is not rendered unpatentable by the proposed combination of Henley and Chan. Applicants respectfully

submit that claims 51-60 that depend either directly or indirectly from allowable claim 50 are also allowable, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 50, 54-57, and 60 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

## **II. The Proposed Combination Of Henley, Chan, And Heath Does Not Render Claims 25, 26, 38, 39, 51, And 52 Unpatentable**

Claims 25, 26, 38, 39, 51, and 52 were rejected under 35 U.S.C. 103(a) as being anticipated by Henley in view of Chan, and further in view of Heath. Applicants respectfully submit that claims 25 and 26, claims 38 and 39, and claims 51 and 52 depend, respectively, from independent claims 22, 36, and 50. Applicants believe that claims 22, 36, and 50 are allowable over the proposed combination of references, in that Heath fails to remedy the shortcomings of Henley and Chan, set forth above. Because claims 22, 36, and 50 are allowable over the proposed combination of Henley , Chan, and Heath, Applicants respectfully submit that claims 25, 26, 38, 39, 51, and 52 that depend therefrom are also allowable, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 25, 26, 38, 39, 51, and 52 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

## **III. The Proposed Combination Of Henley, Heath, Chan, And Avery Does Not Render Claims 27, 28, 40, 41, And 53 Unpatentable**

Claims 27, 28, 40, 41, and 53 were rejected under 35 U.S.C. 103(a) as being anticipated by Henley in view of Heath and Chan, and further in view of Avery. Applicants respectfully submit that claims 27 and 28, claims 40 and 41, and claim 53 depend, respectively, from independent claims 22, 36, and 50. Applicants believe that claims 22, 36, and 50 are allowable over the proposed combination of references, in that Avery fails to remedy the shortcomings of Henley, Heath, and Chan, set forth above. Because claims 22, 36, and 50 are allowable over the proposed combination of Henley, Heath, Chan, and Avery, Applicants respectfully submit that claims 27, 28, 40, 41, and 53 that depend therefrom are also allowable, for at least the same reasons.

Accordingly, Applicants respectfully request that the rejection of claims 27, 28, 40, 41, and 53 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

#### **IV. The Proposed Combination Of Henley, Chan, And Sharman Does Not Render Claims 47, 48, 58, And 59 Unpatentable**

Claims 47, 48, 58, and 59 were rejected under 35 U.S.C. 103(a) as being anticipated by Henley in view of Chan, and further in view of Sharman. Applicants respectfully submit that claims 47 and 48 and claims 58 and 59 depend, respectively, from independent claims 36 and 50. Applicants believe that claims 36 and 50 are allowable over the proposed combination of references, in that Sharman fails to remedy the shortcomings of Henley and Chan, set forth above. Because claims 36 and 50 are allowable over the proposed combination of Henley, Chan, and Shaman, Applicants respectfully submit that claims 47, 48, 58, and 59, that depend therefrom are also allowable, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 47, 48, 58, and 59 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

### **Conclusion**

In general, the Office Action makes various statements regarding the claims of the Application and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants believe that all of pending claims 22-60 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any fees required by this submission to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Dated: January 21, 2009

McAndrews, Held & Malloy, Ltd.  
500 West Madison Street  
34th Floor  
Chicago, Illinois 60661  
(312) 775-8000

By /Kevin E. Borg/  
Kevin E. Borg  
Reg. No. 51,486